

applicants, and members of the public the option, where practicable, of submitting documents to the NRC in an electronic format, for example on CD-ROM, by e-mail, or through a special Web-based interface such as the NRC's Electronic Information Exchange. Generally, electronic submission of documents to the NRC remains voluntary; paper documents remain an acceptable form of submission.

The GPEA requires that agencies accept electronic submissions only when it is "practicable" to do so, but the statute does not define the term "practicable." At the very least, it is not "practicable" for the agency to receive electronic submissions unless they are made in a manner that enables the agency to receive, read, authenticate, distribute, process and retrieve a page at a time, and archive the submissions. The final regulations in this notice incorporate this general notion of "practicable." Although the proposed rule did not contain this language, we have added it throughout the final rule in part to make clear that the agency cannot as a practical matter accept electronic communications in every format that submitters might choose.

However, beyond this, the term acquires meaning only in concrete circumstances and moreover tends to change as those circumstances change because the underlying technology changes quickly. Under these continually changing circumstances, the NRC does not want to write certain technologies into its regulations. Therefore, the technologically driven details of how to make electronic submissions to the NRC are laid out in the guidance document that is appended to this rule. The guidance document will be updated as necessary to reflect new technology and agency experience. The guidance discusses, among other topics, the formats the NRC is prepared to accept, the use of electronic signatures, and the treatment of nonpublic information. Most of the amendments made by this rule take the limited approach of letting readers of the regulations know that the option of electronic submission is available in many cases, and that readers should consult the agency's guidance on electronic submissions.

The NRC has also used the criterion of practicability to determine to what extent sensitive information could be protected in electronic submissions, whether such submissions could serve the needs of immediate notification, and whether the agency was prepared to make all of its outgoing communications electronic. In each of these cases, as will be discussed further below, the agency

has concluded that electronic submissions are not yet always "practicable" because use of electronic submission in these other situations can entail disproportionate costs in time, labor, and other resources, and sometimes can even delay doing something that needs to be done quickly. Since one aim of the GPEA is to increase the efficiency of government, when the use of electronic media for submission decreases efficiency, the use of electronic media is, at least for the time being, not "practicable."

Public comments on the proposed rule have led us to make a significant change in what we consider "practicable." The proposed rule would have continued to require multiple copies of paper submissions (though in reduced numbers), and would, moreover, have required the same number of copies of documents submitted on CD-ROM. However, in light of the comments, the NRC has decided to eliminate nearly all requirements for multiple copies, and most of the changes to the proposed rule implement that decision. We say "nearly all," because we have retained, and made more explicit, the requirement in Part 63 that the application for a license for a first-of-a-kind high-level waste repository at Yucca Mountain, Nevada, be submitted in multiple paper copies. We have not wished to introduce new options into a unique process that has come far enough to give the probable participants reasonably settled expectations about how the application will be submitted and distributed. Moreover, given the technology that is reasonably available to all the probable participants, the application is more likely to be distributed in a timely way if the current regulations are adhered to; and, given the statutory time limit on the length of the licensing proceeding, time is of the essence.<sup>2</sup> However, these same arguments do not apply to possible future applications under the generic

<sup>2</sup> For similar reasons, we have revised § 63.22 to require that the license application, any amendments to the application, and the environmental impact statement and its supplements for the Yucca Mountain facility be submitted also on optical storage media. In fact, the Department of Energy has already submitted the final environmental impact statement for Yucca Mountain on optical storage media. Moreover, this new requirement in § 63.22 is virtually entailed by the existing requirement in 10 CFR 2.1013(a)(2) that the application be docketed in electronic form, and that the Secretary of the Commission determine that the application can be properly accessed under the Commission's rules for the electronic docket in the Yucca Mountain proceeding. Indeed, if the Secretary cannot make such a determination, the agency may reject the application as unacceptable for docketing. See 10 CFR 2.1012(a).

high-level waste regulations in Part 60, and so the requirements for multiple copies have been removed from that part. For a related discussion of the meaning of "practicable," see the beginning of Section III of this notice.

This single copy policy represents a major change in the way the NRC does business, and, as is noted later, the agency may have to make exception to the policy when dealing with CD-ROMs that contain certain kinds of files. The GPEA requires agency compliance by October 21, 2003, where practicable. The rule and guidance are being published by that date. However, the transition to electronic communications will be gradual. The NRC has established January 1, 2004, as the effective date of the rule and guidance document. It is not practicable to implement fully the rule and guidance any sooner. The guidance document has been updated to include several new sections on organizing and segmenting files. These new sections will enhance the NRC's capability to produce paper copies. In the meantime, the delayed effective date for the rule and guidance will allow additional time for the NRC to develop its implementation plan and procedures and prepare to meet its staff's requirements for on-demand paper and CD-ROM copies. This delay will also allow both the NRC staff and submitters (particularly NRC licensees) more time to become familiar with the guidance and to modify their business processes (as appropriate) to achieve a successful transition to the electronic environment. The existing guidance documents on electronic submissions, Regulatory Issue Summary 2001–05 (which was directed toward Part 50 licensees and applicants) and the August 10, 2001, letter (which was directed toward certain fuel cycle facilities) will remain in effect during the period between the required GPEA compliance date (October 21, 2003) and the effective date of this final rule (January 1, 2004). When this final rule takes effect, the new guidance document will supersede both of the existing guidance documents on electronic submissions.

Few of the NRC's regulations on communications explicitly rule out electronic communications. Thus, it has not proven difficult to remove regulatory text that impedes electronic communications in circumstances where electronic communications would be practicable. In searching our regulations, we found only one regulation—§ 50.4(c)—that explicitly required the submission of paper. Many of our regulations require written, or written and signed, communications.